Supreme Court, U.S.
FILED
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IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 2005

MONICA A. VALLADARES, PRO SE

Petitioner,

v.

WAYNE J. DIEDE, CONSTRUCTION, A CALIFORNIA NEVADA CORPORATION, AND WASHINGTON MUTUAL BANK, CALIFORNIA RECONVEYANCE COMPANY, S/B/M N.A. MORTGAGE SERVICES, FORMERLY AMERICAN SAVINGS BANK, A CALIFORNIA CORPORATION, MEMBER OF FEDERAL DEPOSIT INSURANCE et al

Respondent(s)

PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS FOR THE NINTH CIRCUIT

MONICA A. VALLADARES, PRO SE
P. O. Box 612523
San Jose, California 95161

QUESTION PRESENTED

Whether the Court of Appeals for the Ninth Circuit violated due process of law when it required a formal En Banc Review of all rulings executed by Judge OLIVER W. WANGER, and Court clerks, for abused of dis- and abuse of power for his refusal to recuse himself since July 23, 2003.

Furthermore, Judge WANGER and magistrate Judge SANDRA M. SNYDER, violated both Federal Rules of and Local Rules for the Eastern District of California and 28 U.S.C. 636(a), specially L.R. 73-305*a) 78-230(h) FRCP 16, 54, 55, 56, 38, 42, 77, and 79. Because THE FILER COPY TO NEW CIVIL ACTION CV-F-5613-WW-SMS- which issued on May 14, 2003, AND THE NOTICE IN ALL ACTIONS FILED IN DISTRICT COURT - CONSENT TO EXERCISE JURISDICTION BY A MAGISTRATE JUDGE AND ORDER OF REFERENCE, and FEDERAL COURT SCHEDULE AND DOCKET CIVIL SHEET IS TO BE QUESTIONABLE. 28 U.S.C. 1331, 455, 155, 1391 et seq. GOODYEAR v. ATOMIC CORP. 486 US 174, and under Supreme Rule 10 respectively.

DUE TO THE DISORDERLY PROCEDURE BY JUDGE WANGER DENIAL OF EQUAL ACCESS TO JUSTICE, AND EQUAL PROTECTION CLAUSE. (See Fed. APP RULE 34.4, THE ATTORNEYS SHOULD BE SANCTION UNDER FRCP 11, and UNDER 28 U.S.C. 1927. BECAUSE A MOTION TO DISMISS IS NOT DEFENDANTS RESPONSIVE PLEADING.

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1. THE DENIAL OF PETITIONER'S DEMAND FOR JURY TRIAL, FEDERAL JUDGES, CIRCUIT JUSTICES AND MAGISTRATE JUDGES HAVE BREACHED THEIR FIDUCIARY DUTY, AND GIVEN TOO MUCH AUTHORITY, AND POWER TO COURT CLERKS. ALSO, THERE WAS NO COURT REPORTER PRESENT ON AUGUST 5,

SEPTEMBER 18, 19, 22, OCTOBER 9, DECEMBER 3, 2003, AND JANUARY 16, MARCH 3, AND OCTOBER 25, 2005.

2. BECAUSE THE ISSUE ON APPEAL IS THAT JUDGE WANGER'S REFUSAL TO RECUSED HIMSELF AND ALLOWED AND AUTHORIZED JACK L. WANGER, GREG LUCAS, ALICE ALVAREZ, AND JENNIE VASQUEZ, TO EXPIDATE COURT PROCEEDINGS OUTSIDE THE COUR BENCH. ALSO, THE CIRCUIT JUSTICES OF THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT REFUSED TO THE ISSUE ON APPEAL IS THAT JUDGE WANGER REFUSAL TO RECUSED HIMSELF FROM THE ACTION NUNC PRO TUNC JULY 23, 2003.

LIST OF PARTIES

MONICA A. VALLADARES
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San Jose, CA 95161

WAYNE J. DIEDE, CONSTRUCTION, a NEVADA CORPORATION
6455 Haight Road
Lodi, CA 95240

1780 North Highway 99
Lodie, CA 94240

WAYNE J. DIEDE
P.O. Box 1007
Woodridge, CA

WASHINGTON MUTUAL BANK, CALIFORNIA
RECONVEYANCE COMPANY, S/B/M/ N.A.
MORTGAGE SERVICES, Formerly
AMERICAN SAVINGS BANK,
DIME BANCORP EUROPEAN BANK &
CITIGROUP, and PROVIDIAN FINANCIAL
ALFRED R. BROOKS, Executive Vice President
KERRY KILLINGER, Chairman
LAWRENCE TOAI, Chairman and Chief,

ATTORNEY(S) Representing WASHINGTON MUTUAL BANK et al, are AMY LOUISE MORSE, LAWRENCE STEVENS, and BRUCE FLECHTER
9200 Oakdale Avenue, 7th Fl.
Mail Stop N110701
Chastworth, CA 91311

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MONICA A. VALLADARES, petition for a writ of certiorari to the United States Supreme Court for review of the Order and Judgment filed on July 15, 2005, and October 22, 2005, No. 04-17369, D.C. NO. Cv-F-3-5613-OWW-SMS Before, RAWLINSON, and BYBEE, Circuit Judges.

Appendix A-C, pages 19-20.

JURISDICTION

The Court has jurisdiction of the subject matter under 28 U.S.C. 1331, federal question 28 U.S.C. 1342 Civil Rights jurisdiction; & under 28 U.S.C. 1367, 1651, 1653, and also ancillary; Supplemental jurisdiction over State Law Claims, because the claim assessed in it arises out of the United States Constitution and laws of the United States. Plaintiff seeks redress for violation of her Civil pursuant to 42 U.S.C. 1983 see 12 USC 2614, Plaintiff also seeks redress for violation of Automatic Stay under 11 USC 362(a)(e)(h), and via supplemental jurisdiction. Furthermore - this Court's jurisdiction to review the United States court of Appeals Order and Judgment entered by HOWARD HOM, on October 12, 2003, and the Order entered on July 15, 2003, by RAWLINSON and BYBEE, Circuit Judges, because the only issue on appeal is the DISQUALIFICATION of Judge OLIVER W. WANGER. Jurisdiction to grant the writ of certiorari and not to Dismiss the Appeal without an opportunity to be heard. Petitioner is conferred on this Court by the provision of Section 1651(a) Title 28 United States Code and Rule 20 of the Rules of the court and under the provision CCP 996.560, 917.4, 995.710 relating to the enforcement of Supersedeas Bond apply to a surety bond given under Fed. R.

App 23-4, CARR v. GRACE, 516 F. 2d 502. Thus, the surety submits to the jurisdiction of the District Court and the Surety Liability may be enforced on motion in the District court without the necessary to bring an independent action. Whereas an abuse of discretion because of dismissal for want of prosecuting and appeal and for failure to file a cost be entered on the motion of the appellee or on motion of the Court of Appeals. (See Appeal Certiorari and Review Chapter 3 Fed. Proc. Forms 3:62, at page 11. and reversed, stay Judgments, Memorandum and Order is sought for review under 28 U.S.C. 2101(f). Including the Docket Sheet of District Court and the Docket Sheet of the Court of Appeals from which appeal taken from the Lower Court under Fed. F. R. C. P. 37, 79. Federal Courts have original jurisdiction over all civil action under 28 U.S.C. 1332-1348, & 12 U.S.C. 86, 2011 1965, 2279aa-14. See BANKING/FINANCING P. 422-423. Venue under 28 U.S.C. 1655, FRCP 64, 65 HOME LOAN ACT OF 1933, as amended 12 U.S.C. 1464(q). 12 USC 1823, 1831 K.

CONSTITUTIONAL AND STATUTORY PROVISION INVOLVED

This case involves the first section of the Fourteenth Amendment to the Constitution of the United States, which provides as follows: All persons born or naturalized in the United States, and subject to the Jurisdiction of the United States, are citizens of the United States and of the State where they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person life, liberty, or property, without due process of law, nor deny to any person

within its jurisdiction the equal protection of the law. (See Fed. Proc. Forms at 3:574). 42 USC 1982 & 812 of the Civil Rights Act of 1968, USCA Cont. Art. 3-2(d) & 14, Const. Amend. 1-7,5 28 USC 1257.

REASON FOR GRANTING WRIT OF CERTIORARI

Judge OLIVER W. WANGER'S procedural misconduct for aiding and abetting that is against Federal Public Interest and Public Policy, because Corporate Business Records are not privileged and must be Produce. BELLING v. U.S. 417 US 85. See 342 F 3d 1080. The Court should exercise its discretion under 28 U.S.C. 1254, 1391, 1337, 1345, 1331, 1348-1332, 12 U.S.C. 93, 1464(q)3 1823, 1833(a), 18 U.S.C. 1961, where the insufficiency or dissipation of assets concealment of books and records, a money laundering "enterprise as defined in 18 U.S.C. 1961, 1956, 1962, & 1964, UNITED STATES v. PAYNE 750 2d Fed 844. That Judge WANGER deprived the action to be decided by a Jury Panel. Also, after May 14, 2002, there is the fact of false reporting under Credit Reporting Act, 15 U.S.C. 1611, 1638 of the CONSUMER CREDIT ACT. RESPA, HOBBS ACT, SHERMAN ACT, and TRUTH-IN LENDING ACT. (see JEANTU v. WASHINGTON MUTUAL BANK, 305 F. Sup 962. also under FRCP 56, A MOTION FOR JUDGMENT IS A MATTER OF Law.

The Court of Appeals Justices have refused to review the issue on appeal that is Judge WANGER has been Disqualified since July 23, 2003, because of denial of Jury Trial, denial of discovery process including subpoena of records/witness, also Judge WANGER has ignored the fact the Bankruptcy District Court has acquired jurisdiction of the Estate under 11 U.S.C.

362, 547-549-523, 18 USC 1965 (a)(b)(8). Furthermore, Defendant WAYNE J. DIEDE did not have clear title to Real Property Single Family Home commonly known 827 Walnut Way, of which failed to disclose the presence of Asbestos & Lead-Based Paint UNDER 42 U.S.C. 4852(d) TDS, and he was aware of substandard housing violation under Civil Code 1942, 1941, these facts have been stated in the Complaint filed on May 14, 2003, JURY TRIAL DEMANDED. FRCP 38.

The opinion of the Clerk of the Court of Appeals is reported herein, the opinion of District Court CLERK's. Disqualified JUDGE WANGER'S "EDITED ORDER" as well as Order and Judgment of the Court of Appeals is reported in the Appendix of this Petition for Certiorari, see Appendix A, B, C.

The issue presented to the Court of Appeals is the Disqualification of Judge OLIVER W. WANGER for the following grounds: On May 14, 2003, the District Court issued Case NO: CV-F-5613-OWW-SMS- ORDER MANDATORY SCHEDULING CONFERENCE/STANDING order in all CIVIL CASES ASSIGNED TO U.S. DISTRICT Judge OLIVER W. WANGER, FEDERAL COURT SCHEDULE AND CONSENT TO Exercise of JURISDICTION BY S UNITED STATES MAGISTRATE JUDGE AND ORDER OF REFERENCE NOTE: RETURN THIS FORM TO THE CLERK OF THE COURT ONLY IF ALL PARTIES HAVE CONSENT ON THIS . FORM TO EXERCISE OF JURISDICTION BY A UNITED STATES MAGISTRATE JUDGE AND ORDER of REFERENCE NOTE: RETURN THIS FORM TO THE CLERK OF THE ONLY IF ALL PARTIES HAVE CONSENTED ON THIS FORM TO

EXERCISE OF JURISDICTION BY A UNITED STATES MAGISTRATE JUDGE ORDER SETTING MANDATORY SCHEDULING scheduled for August 13, 2003, at 8:45 a.m. CrtRm 2 (5th Floor JUDGE OLIVER W. WANGER. Pursuant to COURT FEDERAL COURT SCHEDULE states: that Civil Scheduling on Wednesday at 8:15 a.m. under FED. Civ. R. P 16- &- L.R. 73-230. Fed. Civ. R. P. 16 requires that Court is required to enter a Scheduling Conference Order within 120 days of the date of Service of Complaint being served upon Defendant. Counsel are referred to Fed. Civ. R. P. 4(m) regarding the requirement of timely service of the Complaint. Thereafter, it is ordered that you appeared for a formal scheduling conference (formerly called Status Conference before Judge WANGER in Court 2, United States Courthouse at 1130 O Street, Fresno, California 93721. Because of the Mandate of Rule 16 FRCP, continuances beyond said 120 days cannot be granted at that time this assigned to U.S. Magistrate Judge. On June 18, AMY LOUISE MORSE, filed Attorney Work Product, Calendar Motion to Dismiss for July 21, 2003, at 10 A.M. AMY L. MORSE'S, Attorney Work Product hearing was set before the 120 days, and 24 days before the MANDATORY SCHEDULING CONFERENCE August 13, 2003. Federal Civil Procedure & Complaint is not subject to dismissal on ground that it not state a claim on which relief can be granted unless it appears it beyond that plaintiff can prove no set of facts in support of his claim which would entitle him to re Fed. Civ. R. P. 12(b)(6), (See SCHEUE v. RHODES, US SUPREME COURT REPORTS 419 Ct. 948 US, Ct 1683, 40 L.Ed 2d 90 CONLEY v. GIBSON, 355 US 41 L. ed 80, 78 S. Ct. 99.

On June 30, 2003, Defendants failed to file an ANSWER to Plaintiff's Complaint, nor filed a WAIVER OF SUMMONS within the time prescribed by law, pursuant FRCP 4(e)(d)-3 of which attached declaration of the process of service shown the fact of personal service CCP 410.10 & in rem & Quasi jurisdiction over the Defendant(s), Fed. Civ. R. P. 4(n), Inter-FIRST BANK CLIFTEN v. FERNANDEZ, 844 F.2d 279.

On July 15, MURRAY MAEIR ARON, filed Attorney Work Product: MOTION TO DISMISS FOR LACK OF SUBJECT JURISDICTION AND FOR FAILURE TO STATE CLAIM BY Defendant's newest hired attorney MURRAY M. ARON.

On July 17, 2003, REQUEST BY PLAINTIFF, MONICA A. VALLADARES FOR ENTRY OF DEFAULT AGAINST WAYNE J. DIEDE.

On July 17, 2003 AMY L. MORSE, Attorney Work Product hearing came before Judge OLIVER W. WANGER on July 21, 2003.

On July 21, 2003, T. LUNDSTRUM, entered, executed his letter in District Court Eastern District of California (Sacramento) Letterhead as Office of the Clerk, 501 I Street, Sacramento, CA 95814. Reply to: Divisional Office 1130 O Street, Room 5000, Fresno, California, JACK L. WAGNER entered in the Docket Sheet by T. LUNDSTRUM letter dated July 21, 2003, attached United States District Court for the Eastern District of California on July 21, 2003 ** CERTIFICATE OF SERVICE ** executed by L. T. LUNDSTRUM, see Appendix D, the above-mentioned CERTIFICATE OF SERVICE, of which is not executed

under penalty of perjury listing only MONICA A. VALLADARES and AMY LOUISE MORSE.

(See WEST'S FEDERAL FORMS pages 356 If the Clerk refuses to enter a default under Rule 55(a) or a Judgment by Default under Rule 55(b)(1) a motion ordering the Clerk to enter such a default or judgment by default may be entered the in the alternative a motion can be made for a default order or a Judgment by default by the Court Notice of the motion should not be given to any party who has not appeared in the suit. WRIGHT & MILLER KANE FED. PRACTICE 2682.

Prior to July 21, 2003, Attorney Work Product in the form of a PROPOSED ORDER was filed by AMY L. MORSE, but AMY L. MORSE, did not serve and file a substitution pleading to substitute in LAWRENCE W. STEVENS. At this point, it is unclear as to who entered into fee agreement contract with Defendant(s) officer of WASHINGTON MUTUAL BANK, reconveyance S/B/M/ N.A. MORTGAGE SERVICE, Formerly, AMERICAN SAVINGS BANK. Thereon July 21, 2003, AMY L. MORSE did not make a general appearance of which may be considered a conflict of interest of the attorney-client privilege, because on June 18, AMY L. MORSE, filed Attorney Work Product, MEMORANDUM of POINT AND AUTHORITIES filed with the court did not filed Defendant(s) Disclosure Statement under Fed. Civ. R P 7-1, 37, and FRAP 26(b)(c), also AMY L. failed to file her DECLARATION UNDER PENALTY OF PENALTY OF PERJURY under 28 U.S.C. 1746, Fed. Civ. R. P. 11. The matter of Motion to Dismiss on Attorney of which is not Defendant(s) Responsive pleading of which came before Judge WANGER, before an order under Fed. Civ. R. P. 16 and L. R. 78-230(h) that required

the Court to determine the entry on the and Motion Calendar setting for hearing Scheduling Conference Order within 120 days of the date of the complaint has been served upon the Scheduling Conference. On May 14, the Scheduling Conference is to be heard on August 13, 2003, at 8:45 A.M. to established the existence of Personal over the Defendant(s). Federal question under 28 U.S.C. 1331, 1254, 12 U.S.C. 1823, 1461, 1470, District court shall have original jurisdiction of all civil action arising under the Constitution, Laws, or treaties of the United States 28 U.S.C. 1343(a) (1)(2)(3)(4), See also 42 U.S.C. 1982, 1985.

The foregoing Attorney Work Product filed and executed by an attorney is in violation of Fed. Civ. R. P. 11. On July 25, 2003, Judge OLIVER W. WANGER, disregarded Plaintiff's AFFIDAVIT OF DISQUALIFICATION that was filed on July 23, 2003 because on July 21, 2003, BRUCE W. FLECTHER did not argue the attorney Work Product filed by AMY L. MORSE, thereafter it is a *prima facia* evidence that Judge WANGER violated 28 U.S.C. 636(a), also the one side ruling and pre-favoring the Attorney Work that shows discrimination and colorable showing that a "WARNING ORDER" should been issue because the personal jurisdiction was acquired by the Court when the service of Summons and Complaint was duly served upon the Defendants. Therefore, an ORDER TO SHOW CAUSE, should have been issued compelling the Defendant(s) to file an ANSWER to Plaintiff's Complaint. In the matter of fact the "EDITED ORDER" executed on July 25, 2003, is confusing and against Federal Policy because on July 21, 2003, Judge WANGER, totally ignored that Plaintiff MONICA A. VALLADARES had

demanded for Jury Trial, also ignored Order SETTING MANDATORY CONFERENCE dated May 14, 2003.

On July 23, 2003, Plaintiff made an objection in writing, see App. E.

Therefore, JACK L. WAGNER, and T. LUNDSTRUM have accepted for filing unauthorized document for improper filing without first filing a NOTICE OF MOTION, this type of authorized interference is an abuse of legal process, and obstruction of justice.

On July 23, 2003, plaintiff MONICA A. VALLADARES affidavit DISQUALIFICATION OF JUDGE OLIVER W. WANGER, AFFIDAVIT was filed pursuant to 28 U.S.C. 144 & 455, DEMANDED FOR JURY TRIAL, but prior to July 25, 2003, Judge WANGER had already decided to dismiss the action: see UNITED STATES v. BALISTIER 779 F2d 1191 & 186 BR 449 4/19/2004 Motion for recuse and disqualification order pursuant to 28 USC 144 a/d 7/23/2003 reassignment Local Rule 3. Forman v. Davis 371 US 178.

Prior to July 21, 2003, Judge WANGER & Court Clerks conspired against Plaintiff MONICA A. VALLADARES and have shown preference to favor attorney Work Product because Plaintiff's Notice of Motion was not made part of the Law and Motion Calendar in the instance case Judge WANGER and Court clerks totally disregarded every motion and Notice of Motion made by Plaintiff, MONICA A. VALLADARES, filed and properly served on the adverse attorney(s) the Court Clerks that handle the Law and Motion Calendar totally ignored Plaintiff's Notice to adverse attorney AMY L. MORSE LAWRENCE W. STEVENS Date: of

Hearing Set for September 1, 2003, but in the meantime BRUCE W. FLECTHER, BARBARA A. POTASHNICK, LAWRENCE W. STEVENS, and BRUCE FLECHTER'S Attorney Work Product was placed for the Law and Motion Calendar on August 29, 2003, it appears that since WAYNE J. DIEDE is in complete thereon, July 17, 2003, Plaintiff filed REQUEST TO DEFAULT, but prior to July 17, 2003, than prior to July 17, 2003, Court Clerks accepted for filing Attorney Work Product from MURRAY MAEIR ARON, July 15, 2003. WAYNE J. DIEDE was in complete default. Pursuant to Fed. Civ. R. P. 55(a), the only document accepted for filing is an application to set aside the default. So, than MURRAY M. ARON, failed to disclose that Defendant has failed to file his Responsive pleading, because a motion to dismiss is not Defendant(s), Defendant WAYNE J. DIEDE ANSWER TO Plaintiff's Complaint with 20 days from the time he served Defendant WAYNE J. DIEDE, time to file Responsive pleading expired on June 30, 2003. MURRAY M. ARON filed attorney Work Product setting the hearing for August 18, 2003, at 10:00 A.M. just be acknowledge without having to file a proper Notice and application to Set Aside Default, furthermore, MURRAY M. MAEIR, did not file Defendant's WAYNE J. DIEDE, Disclosure Statement under Fed. Civ. R. P. 7-1, and FRAP 26(a). Also, MURRAY M. ARON failed his DECLARATION under penalty of Perjury as required pursuant to 28 U.S.C. 1746.

On August 1, 2003, Motion to Set Aside Judge's WANGER'S Memorandum Opinion and Order RE: Deft's Motion to Dismiss. Hearing set for September 1, 2003.

On August 5, 2005, ALICE ALVAREZ interfered with Court judicial process, and without authority she executed a NOTICE OF HEARING to accommodate defendant(s) who are in default because a Motion to is not defendant(s) Responsive Pleading, so Court Clerk ALICE ALVAREZ had no legal standing to file any NOTICE OF HEARING, see App. G.

Furthermore, these three Court Clerks have no rights nor a legal standing to accommodate BRUCE W. FLECTHER, and to include MURRAY M. ARON IN THE ** CERTIFICATE OF SERVICE of is not executed by ALICE ALVARES, under penalty under 28 U.S.C. 1746.

On August 14, Plaintiff, MONICA A. VALLADARES, submitted a complaint for judicial misconduct against Judge WANGER, of which has been ignored by the Clerk of the Court of Appeals for the Ninth Circuit including RE: INJUNCTION AGAINST FRAUD. See 18 U.S.C. 1345 and DISQUALIFICATION OF JUDGE WANGER DEMAND FOR JURY TRIAL July 23, 2003, was or return August 4, 2003. On August 29, 2003, Attorney Work Product filed by BRUCE W. FLECTHER, and the Notice hearing was not barred from the Law and Motion Calendar setting hearing for September 15, 2003, the hearing pre-scheduled by ALICE ALVARES on August 5, 2005.

On September 15, 2003, Judge WANGER refused to recuse himself from the action still proceeded even he has been disqualified. To disqualify a Judge means to bar legally, it is synonymous with lack of legal and with inability to serve. See 712 F. 2d 901. Arnold v. Eastern Airlines, 712 F2d 909.

On September 15, 2003, the matter should have not before Judge Wanger, then to further the abuse of Judge WANGER, "EDITED ORDER" was executed outside of Jury Panel, and outside the presence of Jury Panel and without having jurisdiction over the subject matter and over the parties and the eight (8) pages, see App. H.

This is a clear error and abuse of discretion, abuse of power and a violation of due process of law, rights, and obstruction of justice, because after the by meeting outside the court bench which was scheduled by ALICE ALVAREZ, JACK L. WAGNER, and GREG LUCAS was to accommodate MURRARY M. ARON, STEVE LAWRENCE, AMY L. MORSE, and BRUCE W. FLECTHER. Prior to September 18, 19, 22, 2003, Judge WANGER called GREG LUCAS, JENNIE VASQUES, and JACK WAGNER to anticipate, expedite the CASE without having a Court Reporter present to transcribe the Court Proceedings on September 18, 19, 22, 2003. The absence of the defendant's responsive pleading caused a default, pursuant to FRCP 55(a).

The same type of form used by GREG LUCAS, FILED on October 22, 2003, using the Sacramento District Court Stamp FILED the following: To; All Parties. See App. K.

The " CERTIFICATE OF SERVICE was also executed by GREG LUCAS, but is not executed under penalty of perjury. 28 U.S.C. 1746.

Your petitioner, MONICA A. VALLADARES, respectfully presents this petition for a Writ of Certiorari to review and to stay all judgments entered by Court Clerks, and to correct all the unlawful entries in both Docket Sheets due to

obstruction of Court proceedings. 28 USC 1254. See RE: RENOVIZOR'S INC. 236 F. 3d 518. FRAP 3-3, 34(a) 8, 27-2, 27-3, 10-304, FRCP 4, 8, 15, 19, 79, 54, and 28 U.S.C. 1927.

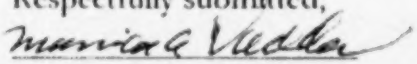
CHALLENGING JURISDICTION: When a motion to dismiss lack of subject matter jurisdiction cannot be confused or misconstrued with other motions such as the Attorney Work Product and the absence of defendants FRCP 13(h) requires JOINDER OF PERSON NEEDED FOR AN ADJUDICATION. Judge WANGER did not issue a Court to compel defendant(s) to file their Responsive pleading to acquired defendant personal long arm Jurisdiction applies, under FRCP 13 jurisdiction cannot be waived. See also SHAFFER v. HEITNER, 413 US 186, Erie R.R. Co. v. Thompson. 304 US 64. 413 US 186 Re Center Wholesale Inc. 759 Fed. 1440 Everts v. Sherin 1972, 407 US 67 P. V. Beverly 134 Cal. App. 3d 906. 345 US 6267-276.

To be more specific the "EDITED ORDER" October 25, 2004, was Edited outside the BENCH without having a court Reporter present, the failure to present Transcript Dist Court is in default. FRCP Rule 60 declares that it does not limit the Court the power to entertain an independent action to relief from a Judgment and GRANTED the Writ of Certiorari under 28 U.S.C. 1653.

CONCLUSION

For the reason stated above, the Judgment below should be REVERSED.

Respectfully submitted,



Monica A. Valladares

PARTIAL STATEMENT OF THE CASE

On April 4, 1998, WAYNE J. DIEDE, and MONICA executed a RESIDENTIAL LEASE OPTION AGREEMENT LEASE OPTION WITH PURCHASE & RESIDENTIAL PURCHASE CONTRACT WITH RECEIPT OF DEPOSIT at that time WAYNE J. DIEDE, received $12,000.00, $1,363.63, 10,000, ROOF CREDIT. Thereafter, MONICA A. VALLADARES, LUCIA VALLADARES and PEDRO S. ALFARO, made the installments under the 2 years' term. On March 29, 2000, MONICA A. VALLADARES open Escrow with NORTH AMERICAN TITLE COMPANY, upon an agreement between WAYNE J. DIEDE, MONICA A. VALLADARES Lessee, and LUCIA VALLADARES, bona fide purchaser. On June 12, 2000, the Exercise LEASE OPTION with PURCHASE was recorded Instrument NO. 2000-0047082-00. On August 2000, a lawsuit was filed against WAYNE J. DIEDE, and LLOYD W. DIEDE, for breach of contract also WAYNE J. DIEDE, breach Escrow Instructions. During May 1 through November 1, 2001, WAYNE J. continue receiving $1,363.00, of which this sum should have been prorated and credited toward the purchase of Real Property single Family Home of which the purchase price is

$197,000.00 All the allegations are described in the Complaint, Case No. 272098. Fed. Civ. R. P. 8(a)(2). Thereafter, they all concealed these material facts, as well that they all have violated 28 U.S.C. 1334, 11 U.S.C. 101, 362(a)(c)(h), 158. Prior to May 7, 2002, a secret meeting was called by WAYNE J. DIEDE's attorney ANHTONEY D. ROWE, Judge JOHN E. GRIFFIN, Court Clerk ANNA VALENCIA, and two Sheriffs from STANISLAUS COUNTY, recall WRIT OF POSSESSION executed by ANNA VALENCIA, and the JUDGMENT executed by Judge GRIFFIN, judgment placed and filed by Angie Gonzalez on May 14, 2002. Both documents were executed outside the trial court bench, without having a Court Reporter present, Judge MAYHEW, waive Jury Trial without a hearing. On May 14, 2003, between 9:30 & 10:00 A.M. WAYNE J. DIEDE, and 2 Sheriffs drove up to Walnut Way in an unmarked vehicle to conduct the Wrongful, Fraudulent, and Retaliatory Eviction. A supersedeas Bond is required & a Bond under Seal for treble damages $7,000,000.00, against Defendants for taken Real Property and Personal Property, including Plaintiff's 1978 GREEN VOLVO taken without due process of law, and for punitive damages for conversion, abuse of process, malice, misrepresentation, and in bad faith concealing the facts that WAYNE J. DIEDE, did not have Month to Month Tenancy Rental Agreement when ANTHONY D. ROWE, filed the UNLAWFUL DETAINER proceeding against MONICA A. VALLADARES, to obtain the WRIT OF POSSESSION/JUDGMENT without given the opportunity to be heard, because on November 28, 2001, the summons and complaint of the unlawful detainer was not properly served upon all the parties residing at 827 Walnut Way, Modesto, California, nor was placed in the Law/Motion

UNLAWFUL DETAINER TRIAL CALENDAR by WAYNE J. DIEDE, ANTHONY D. ROWE Attorney Work Product concealed Case No: 272098, in Bankruptcy Code unsecured Creditor Proof of Claim, Case No: 02-90619-A-7 and 02-91184-A-13. See also 18 U.S.C. 1001-1006 28 U.S.C. 1746 et seq.

Prior to January 2, 2003, Judge WILLIAM MAYHEW, and Judge JOHN GRIFFIN, refused to hear the Plaintiff's PROVE-UP HEARING thereon, on January 2, 2003, to set aside default matter came before Judge MAYHEW. WAYNE J. DIEDE, first hired attorney work product filed by JOHN HARRIS, did not disclose the UNLAWFUL DETAINER action that was filed on December 10, 2002, by ANTHONY D. ROWE. WAYNE J. DIEDE v. MONICA A. VALLADARES - CASE NO: 306888.

On February 19, MONICA A. filed Chapter 7, because of financial hardship, and also because Judge of the Sup. Court Stanislaus County was not reading her pleadings. Thereafter, ANTHONY D. ROWE, failed to SERVE AND GIVE NOTICE OF HEARING OF CONTINUANCE without first filing a proper motion and Notice of Hearing prior to March 29, 2002. See Superior Ct. Stanislaus County L. R. 3.26.

The issuance of the WRIT OF POSSESSION executed by ANN VALENCIA, on May 7, 2002, is in violation of CCP 715.020(d), 715.010, 712.010, 1174, 514.46, 715.050, 715.040, and 697.010, 28 U.S.C. 1257. MONICA A. VALLADARES was not named in WRIT OF POSSESSION, nor in the Judgment dated May 7, 2002, but on May 14, 2002, one of the Sheriff's threaten her that if she calls MODESTO Police

Department she was going to be arrested for perjury. Due to the fraud and misrepresentation concealment of facts, that 45 days after NATC failed to call for funds from the lender WASHINGTON MUTUAL BANK, formerly AMERICAN SAVINGS BANK who recorded a $1.00 RECONVEYANCE executed by JOE COLLA c/o M. ANGEL/BANK OF STOCKTON Doc. NO: 098420 dated October 13, 1990. CONSTRUCTION (ADJUSTABLE RATE) DEED OF TRUST ASSIGNMENT OF RENTS AND SECURITY AGREEMENT Payment of an indebtedness in the Sum of $1,700,000.00 February 13, 1990.

Doc. NO; 013172, which describes property description MARTHA D. MARCONETT JULY 6, 1944 Volume 795 of Official Records at Page 178 Inst. Number 9422 where 827 Walnut Way Single Family Home is located, Parcel NO: 37-13-17-271, 37-1316-101, 37-1312-271, were changed, converted, and altered to APN NO: 037-62-01. The Subdivision Map of Nunes Farm Recorded by STEWART TITLE GUARANTY CO. on Dec. 28, 89, Doc. NO: 104153 refers to: JESSE L. STANLEY, Ptn of N/E 1/4 of Sed. 6 T4S, R9E, APNS: 37-13-12-16-& 17, given ne NEW property description, Lot 4 Block 3050 of Nunes Farm Map Recorded Dec. 28, 1989 in Book 24-M-66 Maps Page 68, Stanislaus County Recorder. EXCEPTIONS: FOUNDER TITLE CO. A California Corp. as Trustee under certain Deed of Trust recorded July 28, 1989 as Inst. NO: 058004. APN NO: _listed above are changed/converted by Stanislaus County Recorder's Office New APN NO: 37-62-01-121 Doc. NO: 039589 Recorded April 30, 1992. Violation of Gov. code 664744(2), Rev. Tax code 428. See APPENDIX L.

See Appendix L. See Corn Exchange Bank v. Klauder 318 US 434-438, Snow v. First Am. Title Ins. Co. 332, F3d 356, see 12 U.S.C. 2607.

This facts and other argument showing reason that Single Family Home commonly known 827 Walnut Way, is property of the Bankruptcy Court, Estate/Debtor in possession, and Buyer occupied pursuant to Civ. Code 1675. and matter in controversy, see 28 U.S.C. 1254, including the $5,000.00 placed in Escrow NO: 55701-01026782-PKC Property 827 Walnut Way, Modesto, California, and breach of seller's Escrow Instructions by seller/lessor WAYNE J. DIEDE. See 24 CFR 3500, 3507-17, 12 USC 2601, 2607, 12 USC 2001-END. 28 USC 2108, 28 USC 2101(e), 28 USC 1254, 2101(c), 1254(3), et seq.

JUDICIAL NOTICE CONSOLIDATION

Related cases: Civ-F-03-5450, 04-17039, Civ-F-05-6606, 04-15432.

When two or more parties are entitled to appeal from a District Court Judgment or Order, and their interest make joinder practicable, they may file a joint Notice of Appeal. They may then proceed on appeal as a single appellant. (see KARCHER v. MAY, 484 U.S. 108, When the parties have filed separate timely notice of appeal, the appeals may be joined or consolidated by the Court of Appeals under FRCP 42(a)(b), Fed. Proc. Forms 3:268, 3:513, and Sup. Ct. Rule 27.3.

OPINION BELOW

The order and the Judgment of the Court of Appeals for the Ninth Circuit issued by Court clerks on July 15, 2005, and October 22, 2005, NO: 04-17369, statement by RAWLINSON & BYBEE, Circuit Judges. The Order dated July 15, 2005 states:

Appellant's motion for disqualification of the judges and staff attorneys of this court is denied. Appellant's motion to consolidate this appeals No. 04-15432 and No. 05-15700 is denied as moot because those appeals have been dismissed for lack of jurisdiction. Appellant's "motion for Permission to File Cross Appeal" is denied. The Court's records reflect that this case may be appropriate for summary disposition under Ninth Circuit Rule 3-6. (S:/MOATT/panco/07/11/05. orders/sr2/04-17369.wpd. 2 04-17369

Within 21 days of the filing date of this order, appellant shall show cause why the district court's October 26, 2004 order should not be summarily affirmed. Appellees may respond within 8 days after service of appellant's memorandum.

If appellant does not comply with this order, this appeal will be automatically dismissed by the clerk for failure to prosecute. See 9th Cir. R. 41-1. Briefing is suspended pending further order of the court. Appellant's motion for an extension of time to file the opening brief is denied as unnecessary. S:/MOATT/Panelord/07.11.05order/sr204 17369.wpd2

APPENDIX A

File no: CV-F-03-5613-OWW-SMS

NOTICE OF APPEAL: TO ALL PARTIES AND TO THEIR ATTORNEY OF RECORD NOTICE IS HEREBY GIVEN THAT Plaintiff, MONICA A. VALLADARES, hereby appeals to the United States Court of Appeals for the Ninth Circuit from that "EDITED ORDER" entered in the above captioned action on October 25, 2004, executed by Judge OLIVER W. WANGER, has been disqualified since July 23, 2003, Judge OLIVER W. WANGER, refused to recuse himself from this action, a Jury Trial has been denied, and this constitutes an abuse of power, abuse of discretion, and unconstitutional. DATED: November 15, 2005.

APPENDIX B

Office of the Clerk

United States Court of Appeals for the Ninth Circuit

95 Seventh Street

Post Office Box 19339

San Francisco, California 94119-3939

Cathy A. Catterson (415) 566-9800

October 12, 2005

USDC, Fresno
Eastern District of California (Fresno)
5408 United States Courthouse
Fresno, CA 93721

No.	Title	Agency/D.C. No.
4-17369	Valladares vs. Diede	CV-03-05613-OWW-SMS

Dear Clerk: The following document in the above listed cause is being sent to you under cover letter.

CERTIFIED COPY OF THE DECREE OF THE

The record on appeal will follow under separate cover. Please acknowledge receipt on this letter.

Very truly yours,
Cathy A. Catterson,
Clerk of Court
By: Howard Hom Deputy Clerk
Enclosure(s) cc: All Counsel

APPENDIX C

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT COURT

MONICA A. VALLADARES, — No. 04-17369

Plaintiff-Appellant, — CV-03-05613-OWW

v.

WAYNE J. DIEDE; et al — JUDGMENT

Defendants-Appellees.

Appeal from the United States District Court for the Eastern District of California (Fresno). This cause came on to be heard on the Transcript of the record from the United States District Court for the Eastern District of California (Fresno) and was duly submitted. On the consideration whereof, it is now here ordered and adjudged by this Court, that the said District Court in this case be, and hereby is AFFIRMED. Filed and entered Tuesday, September 20, 2005.

APPENDIX D

Dear: Plaintiff: your request for ENTRY OF DEFAULT against Wayne J. Diede in the above reference case had been reviewed and denied to non-compliance with Federal Rule of Civ. Procedure 55. Defendant Wayne J. Diede filed a motion to dismiss on July 15, 2003, with hearing scheduled for August 18, 2003, at 1:30 A.M. before Judge Oliver W. Wanger:

APPENDIX E

On July 23, 2003, Plaintiff made an objection in writing regarding T. LUNDSTRUM'S interference with Judicial process and for obstructing of Court proceeding for failure to review the file prior to July 21, 2003, because when a defendant is in default in the only pleading is allowed is a Notice and Motion to Set Aside Default pursuant to Fed. Civ. R. Pr. 55(a).

APPENDIX F

CIVIL/DOCKETING

Docket) (Vdkttext)

Docket # : 3-CV-03-563

Short Title: Valladares v. Diede CSMDL REFER

Type: cv cc Judge Wanger Magistrate: Snyder

Summary of Events that created the Document

Field	Entry	Last Updated	History
	Docketed by		
7/25/03	7/25/03	**/**/**	13797130
	jh		

*MEMORANDUM OPINION AND ORDER by Judge Wanger motion to dismiss by Dfts WMB & CRC (4-1) GRANTED w/leave to amend; complaint (1-1) DISMISSED: Plts's motion for default judgment against dft Diede I Pltf's is GRANTED LEAVE TO AMEND Complaint I, lcase mgmt ddl se for pltf to *viewing docket text----------

Transaction: memopn 0 -/ gr/ dism - -

Command mode (? for commands)

L Sess-1 156.126.225.230 1 16/6

APPENDIX G

On August 5, 2005, ALICE ALVAREZ interfered with Court judicial process, and without authority she executed a NOTICE OF HEARING to accommodate defendant(s) who are in default because a Motion to is not defendant(s) Responsive Pleading, so Court ALICE ALVAREZ had no legal standing to file any NOTICE OF HEARING for CASE No. CV-F-03 5613-OWW SMS. This type of interference constitutes an obstruction judicial proceeding to act outside scope of their stating: PLEASE TAKE NOTICE that the hearing on the to set aside in this case has been RESET AS FOLLOWS

PREVIOUS DATE AND TIME NEW DATE AND TIME

09/01/03 at 9:30 a.m. 09/05/03 at 0:00 a.m.

Place: U.S. District Court, courtroom two, 5th Floor

1130 O Street, Fresno, California 93721

IF COUNSEL is not available on this date, it shall be the RESPONSIBILITY OF COUNSEL TO SUBMIT A

APPENDIX H

PLAINTIFF'S MOTION TO SET ASIDE JUDGE OLIVER'S MEMORANDUM AND ORDER RE: DEFENDANTS' MOTION TO DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION AND FOR A FAILURE TO STATE A FOR WHICH RELIEF CAN BE GRANTED.

APPENDIX I

STAMP FILED JUDGMENT ENTERED 9/19/03 BY JENNIE VASQUES, Deputy Clerk U.S. District Court Eastern District of California ____ FILE CLOSED

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

MONICA A. VALLADARES, Plaintiff,

vs. JUDGMENT IN A CIVIL ACTION

WAYNE J. DIEDE, et al, CV-F-03-56130

Defendant.

_____/

DECISION BY COURT: This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS HEREBY ORDERED AND ADJUDGED that this action is dismissed. Dated: 9/9/03

JACK L. WAGNER, CLERK

By J. VASQUEZ,

Deputy Clerk

APPENDIX J

Eastern District of California
501 I Street, Suite 4-401
Sacramento, California 95814

STAMP FILED CLERK OF U.S. DISTRICT COURT

By _____ Reply to Divisional Office

1130 O Street, Fresno, California Greg Lucas - 559-498-7256

JACK L. WAGNER, Clerk. September 22, 2003

RE-CV-F-03-5613-OWW-SMS
Valladares vs. Diede

To All Parties:

As Judgment has now been entered in this action, all pending motions are vacated and no further hearings are scheduled in this matter.

Sincerely,

JACK L. WAGNER, Clerk

By

Courtroom Deputy to Judge Wanger

(see attached) Re: CV-f-03-5613-OWW-SMS

Valladares vs. Diede

APPENDIX K

(see attached) Re: CV-f-03-5613-OWW-SMS

Valladares vs. Diede

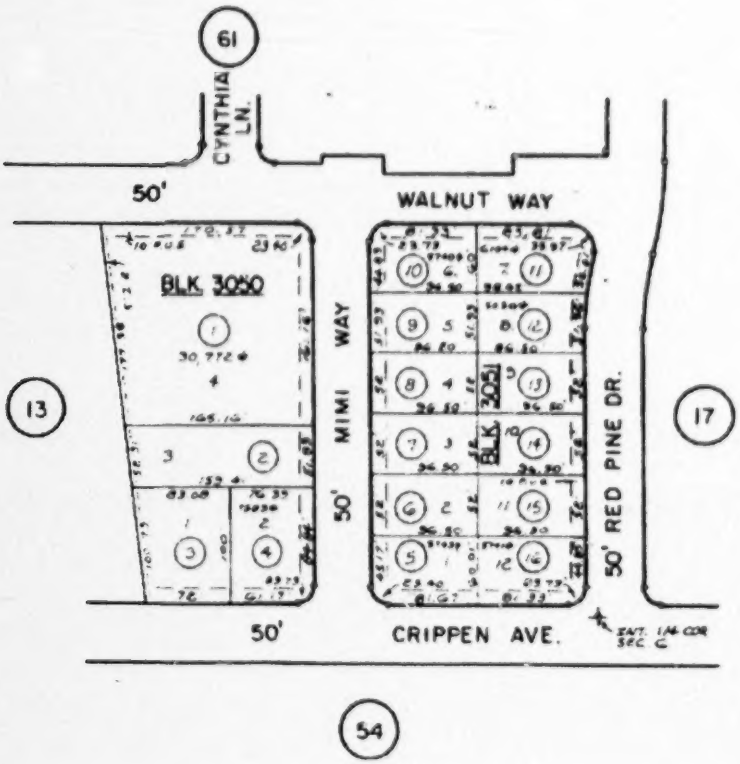
Counsel: On October 22, 2003, the Plaintiff MONICA A. VALLADARES filed a motion to vacate Judgment which set for a hearing for November 5, 2005. Please be advised that Judge Wanger only hears motions on Mondays at 10:00 A.M. It should also be noted that the of service has an incorrect address for counsel for Washington Mutual and does not list counsel for Defendant Wayne J. Diede at all.

For the above reasons, this motion will not be placed on the calendar until such time as it is properly set for hearing and there is a Proper Certificate of service filed. By GREG LUCAS, Courtroom Deputy to Judge.

APPENDIX L

PORTION NE 1/4 SECTION 6 T.4S. R.9E. M.D.B.&M.

POR. NUNES FARM



CERTIFICATE OF SERVICE BY MAIL

I, CARLOS AGUIRRE SANTA CLARA COUNTY #885, declare:

I, the undersigned, hereby certify that I am a citizen of the United States , and I am over the age of eighteen years and not a party to the within-entitled action:

MY address is: COUNTY PROCESS SERVICE
31 East Julian Street
San Jose, CA 95112
(408) 554-9976

I served a true copy of the

PETITION FOR WRIT OF CERTIORARI

by placing a true copy in a postage-prepaid envelope to the person(s) here-in listed, by depositing said envelope in the United States Mail at: San Jose, California.

SERVED BY MAIL:

Amy L. Morse, Lawrence Stevens & Bruce Flecther
9200 Oakdale Avenue 7th Fl.
Mail Stop N11701
Chatsworth, CA 91311

Hon. PAUL D. CELIMENT
The SOLICITOR GENERAL
950 PENNSYVANIA AVE. N.W.
ROOM 5614
WASHINGTON, DC 20530

I, declare under penalty of perjury that the foregoing is true correct.

Dated February 14th, 2006

CARLOS AGUIRRE
SANTA CLARA COUNTY #885

(3)

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2005

05-1038

FILED

MAY 17 2006

OFFICE OF THE CLERK
SUPREME COURT, U.S.

MONICA A. VALLADARES, PRO SE

Petitioner,

v.

WAYNE J. DIEDE, CONSTRUCTION, A CALIFORNIA NEVADA CORPORATION, AND WASHINGTON MUTUAL BANK, CALIFORNIA RECONVEYANCE COMPANY, S/B/M N.A. MORTGAGE SERVICES, FORMERLY AMERICAN SAVINGS BANK, A CALIFORNIA CORPORATION, MEMBER OF FEDERAL DEPOSIT INSURANCE et al

Respondent(s)

PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR REHEARING

MONICA A. VALLADARES, PRO SE
P. O. Box 612523
San Jose, California 95161

GROUND FOR REHEARING

A rehearing to set aside letter dated April 24, 2006, executed by Court Clerk WILLIAM k. SUTOR, in this matter of interest of justice this short brief states grounds justifying rehearing, e.g.

1. The subsequent letter dated April 24, 2006 executed by Clerk of this Court, described letter decided and based on said Letter it has been determined by Clerk of the Court stating that Court denied the Petition for Writ of Certiorari of which is not accompany with PROOF OF SERVICE pursuant to (Sup. Ct. R. 29.5 and under 28 U.S.C. 1746, 18 U.S.C. 1341, 1001

2. The principal ground is that the crucial issue has not fully determined by four factor test, and by Votes, and Petition for Writ of Certiorari was denied outside the presence of the Supreme Court Bench without a Jury Trial.

3. There is the need of the Court Reporter's Transcript who transcribe the Court proceeding on April 24, 2006. The form of Letter which was executed by Court Clerk WILLIAM K. came as a surprise to Petitioner, MONICA A. VALLADARES, because it is an abuse of power and obstruction of justice to conceal the and withheld the Order of the Court. The Court and Court Clerk WILLIAM K. SUTOR, are aware that related were due prior to March 17, 2006 The subsequent W A I V E R dated March 17, 2006 should have been rejected for failure to comply with Supreme Court Rules. Also because AMY LOUISE MORSE, LAWRENCE STEVENS, and BRUCE FLECTHER, did not filed SUBSTITUTION of ATTORNEY prior to March 17, 2006, The adverse

BEST AVAILABLE COPY

attorneys failed to filed extensively brief in opposition, defendant's opposition brief is crucial in the Court's decision in the above-caption case, because one of the issues before the Supreme Court is the refusal of Judge OLIVER W. WANGER to recused himself and the judgments of the lower Courts are been executed outside the presence of the District Court and Court of Appeals Bench, and executed by Court Clerks and Deputy Clerks. the above-mentioned expected as related issues to be review by Supreme Court Justices.

4. The Writ of Certiorari contains violations of due process of law, and, thus, contains crucial factual and procedural distinction from that warrant guarantee equal protection protection clause to all under the Fourteen Admendment, and pursuant to the Supreme Court Rules, Thus, far a Letter executed by Court Clerk cannot justify a fair access to Justice

a Was the Writ of Certiorari distributed to all Supreme Court Justices, and all Member of the Senate and to Member of Congress?

b. Court Clerk, WILLAIM K. SUTOR, has in deed violated all the Supreme Court Rules, & should be Sanction.FRCP 37

c. Adverse Attorneys has failed to obey and participate with Federal Civil Discovery, and should be Sanction. R. 37

d. Petitioner, MONICA A. VALLADARES HEREBY is requesting for the Court To provide the name of the Court Reporter that was on present on April 4, 2006.

5. The Supreme Court Justices has not granted

equal opportunity by the Court to distinguish and review the Petition for Writ of Certiorari and given special privileges and it ruling are different from other cases that are placed in the Supreme Court Calender pursuant to (Sup, Ct. R. 23, and Rule 28. this constitutes a denial of due process of law, and cause concern because also an obstruction of justice and its judicial process of law in the Superior Courts Federal District Courts, and the Court of Appeals for the Ninth Circuit.

6. Has the Court noted the Letter placed in the United States Mail has noted that Petition for Writ of Certiorari is this with factual and ex- in good faith, and why is the Court allowed the Court Clerks to intercept, interfered with the Judicial Process. This case should not be treat ed markedly different rules distinguished from other cases that are before the Supreme CCour and beside there has not been any Court Order issued by at least three Justices, therefore, the Letter and its contains made by WILLIAMS K. SUTOR, cannot be a final and conclusive final statement controlled in this case.

7. Since there is any PROOF OF SERVICE BY MAIL of the Order of the Court to justified that if in fact there is such ruling made on April 2006. Therefore, since the Court has not served a copy of the Order of the Court, it unfair to burden with a rehearing process, it is fund damental unfainess to denied the moving party an opportunity to be heard, and would not unduly burden the Court. (se Sup. Ct. R. 44, and 28 U.S.C. 2101(f).

For the reason just stated MONICA A. VALLDARES, Petitioner and Appellant argues and

prays that this petition for rehearing be granted and further consideration to the Petition for Writ of Certiorari be GRANTED, and the judgments of the lower Courts be REVERSED AS APPROPRIATE.

Dated: May 15, 2006

Respectfully submitted,

Monica A. Valladares

PROOF OF SERVICE BY MAIL

CERTIFICATE OF SERVICE

05-1038

I, SCOTT M. SOTO declare:

That I am, at all times during the service of this process, I am over the age of 18 years,and not a party to the within action, my address is

31 East Julian Street, San Jose, Ca 95112

On 5-17-06 I serve the following documents:

PETITION OF REHEARING

On the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid in the United States mail at

San Jose, California

by placing a true copy thereof enclosed in a sealed envelope ther thereon fully prepaid , in teh United States at addressed as follows:

AMY L. MORSE, LAWRENCE STEVENS& BEUCE FLECTHER
9200 Oakdale Ave. 7th Fl.
Mail Stop N11701

Chasworth, Ca 91311

PAUL D. CELIMENT
THE SOLICITOR GENERAL
950 PENNSYVANIA AVE. N.W.
ROOM 5614

WASHINGTON, Dc 20530

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on December 16, 2005

SCOTT M. SOTO
SANTA CLARA COUNTY #979